IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

MFA.No. 1367 of 1996()

AGAINST THE INTERIM AWARD PASSED BY THE COURT OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL KALPAETTA IN I.A. NO. 1027/1996 IN O.P (MV) 204/1995 DATED 16-8-1996

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APPELLANT:

UNITED INDIA INSURANCE CO. LTD
BRANCH OFFICE, KALPETTA
REPRESENTED BY ITS MANAGER
THIRD PARTY CLAIMS CELL
VETTUKATTIL BUILDINGS, KOCHI.

BY ADV. SRI.K.C.PETER

RESPONDENTS:

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1. JOY M. ANTONY, S/O ANTONY
MAZHUVANCHERY HOUSE
THOTTAKKATTUKARA , ALUVA

2. SURENDRAN, S/O JANU
AYYAPPANKAVALA
VYTHIRI TALUK
KUNNATHIDAVAKA AMSOM DESOM
OF VYTHIRI TALUK
DRIVER OF KL-12/737 NO. JEEP

3. JOSEPH E.T, S/O THOMAS
CHERIYATHARAPPEL VEEDU
VYTHIRI P.O,
KUNNATHIDAVAKA AMSOM DESOM OF VYTHIRI TALUK
OWNER OF KL-12/737 NO.JEEP

BY

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.F.A. NO. 1367 OF 1996

ORDER IN C.M.P NO. 4862 OF 1996 IN M.F.A. NO. 1367 OF 1996

DISMISSED

SD/-

25-9-2007 K.PADMANABHAN NAIR, JUDGE

K.PADMANABHAN NAIR, J.

M.F.A No. 1367 of 1996

Dated this the 25th day of September 2007

JUDGMENT

1. Today also, the appellant and counsel are absent. This appeal is filed by the Insurer in O.P (M.V) 204/1995 on the file of the Motor Accidents Claims Tribunal Kalpetta. I had already dismissed the appeal so far as the 1st respondent is concerned, for non- prosecution. Since the appellant and counsel are absent I have no other option, but to dismiss this appeal as against other respondents for non- prosecution. But there are certain facts which are to be clarified in this appeal.

2. This appeal is filed against an award passed by the Motor Accidents Claims Tribunal Kalpetta awarding an amount of Rs. 12,500/- as interim compensation. under Section 140 of the Motor Vehicles Act 1988 in an I.A. filed by the petitioner in the petition. The accident occurred on 30-10-1994 . According to the appellant, on the relevant date the quantum of compensation for permanent disability under 140 of the Motor Vehicles Act has come only to 12,500/- By the amendment of the Act which came into force with effect from 14-11-1994 the said amount was enhanced to Rs. 25,000/-. In M.F.A. 1000/1995 and other connected cases a Full Bench of this court held that Section 140 of the Motor Vehicles Act has no retrospective effect and hence the 1st respondent is

entitled to only for Rs. 12,500/-. It is also averred by the insurer in the appeal that he had already deposited Rs. 25,000/- in pursuance of the Order.

3. It is also seen that on 8-11-1996 in C.M.P 4862/1996 this Court has passed an order staying the operation of the order on condition that the appellant deposits only Rs.12,500/- That amount can be withdrawn by the 1st respondent.

With the observations this appeal is dismissed for non-prosecution.

K.PADMANABHAN NAIR,JUDGE

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